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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

8 RICHARD LAWRENCE STROHMETZ,
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10 *Petitioner,*

11 vs.

12 CHARLOTTE COLLINS, *et al.*,

13 *Respondents.*
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2:13-cv-01614-JCM-NJK

ORDER

15 On September 4, 2013, petitioner, who is a federal detainee being held at the Nevada Southern
16 Detention Center, submitted a habeas petition pursuant to 28 U.S.C. § 2241. His allegations involved
17 denied medical care.

18 Petitioner did not pay the filing fee or submit an application to proceed in *forma pauperis*. He
19 did, however, write to the clerk of court acknowledging this deficiency and asking if the matter could
20 be “held until this informa pauperis [sic] catches up to it?” ECF No. 2. More than thirty days have
21 since elapsed and no filing fee or pauper application has been submitted. Because the matter has not
22 been properly commenced and because there does not appear to be any statute of limitations issues
23 which would jeopardize petitioner’s ability to bring his claims in a new action which would include the
24 necessary fee or form, the action shall be dismissed without prejudice.

25 The court notes that the form of petitioner’s claims implicate a proceeding under *Bivens v. Six*
26 *Unknown Fed. Narcotics Agents*, 403 U.S. 388, 91 S.Ct. 1999 (1971), concerning the conditions of his
27 confinement rather than a habeas action designed to attack the fact or length of his confinement. Under
28 *Bivens*, victims of a constitutional violation by a federal agent have a right to recover damages against

1 the official in federal court despite the absence of any statute conferring such a right. *See Carlson v.*
2 *Green*, 446 U.S. 14, 18, 100 S.Ct. 1468, 1471 (1980). As an aid to this pro se petitioner, the clerk will
3 be directed to send a copy of a civil rights complaint form that petitioner may use as a template for any
4 *Bivens* complaint he may wish to pursue.

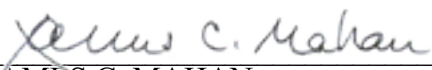
5 IT THEREFORE IS ORDERED that this action shall be DISMISSED without prejudice to the
6 filing of a new petition in a new action with a properly completed pauper application.

7 IT FURTHER IS ORDERED that a certificate of appealability is DENIED, as jurists of reason
8 would not find the court's dismissal of this improperly commenced action without prejudice to be
9 debatable or incorrect.

10 IT FURTHER IS ORDERED that the clerk shall send petitioner two copies each of an
11 application form to proceed *in forma pauperis* for incarcerated persons and a noncapital Section 2241
12 habeas petition form, one copy of a § 1983 civil rights complaint form, one copy of the instructions for
13 each form, and a copy of the papers that he submitted in this action.

14 The clerk shall enter final judgment accordingly in favor of respondents and against petitioner,
15 dismissing this action without prejudice.

16 DATED: October 9, 2013.

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19 JAMES C. MAHAN
20 UNITED STATES DISTRICT JUDGE
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